

subject. The documents, files, and other material or property comprising said records shall at all times be available for such examination and audit wherever any of said records, documents, files, material, or property may be.

(d) *Change in location of records.* A savings association shall not transfer the location of any of its general accounting or control records, or the maintenance thereof, from its home office to a branch or service office, or from a branch or service office to its home office or to another branch or service office unless prior to the date of transfer its board of directors has:

(1) By resolution authorized the transfer or maintenance and;

(2) Sent a certified copy of the resolution to the Regional Director of the OTS Region in which the principal office of the savings association is located.

(e) *Use of data processing services for maintenance of records.* A savings association which determines to maintain any of its records by means of data processing services shall so notify the Regional Director of the Region in which the principal office of such savings association is located, in writing, at least 90 days prior to the date on which such maintenance of records will begin. Such notification shall include identification of the records to be maintained by data processing services and a statement as to the location at which such records will be maintained. Any contract, agreement, or arrangement made by a savings association pursuant to which data processing services are to be performed for such savings association shall be in writing and shall expressly provide that the records to be maintained by such services shall at all times be available for examination and audit.

[54 FR 49552, Nov. 30, 1989, as amended at 55 FR 34547, Aug. 23, 1990; 57 FR 14335, Apr. 20, 1992; 57 FR 40092, Sept. 2, 1992; 58 FR 28348, May 13, 1993; 59 FR 29502, June 7, 1994; 59 FR 53571, Oct. 25, 1994; 59 FR 60304, Nov. 23, 1994; 60 FR 66718, Dec. 26, 1995; 61 FR 50984, Sept. 30, 1996]

§ 563.171 Frequency of safety and soundness examination.

(a) *General.* The OTS examines savings associations pursuant to authority conferred by 12 U.S.C. 1463 and the requirements of 12 U.S.C. 1820(d). The OTS is required to conduct a full-scope, on-site examination of every savings association at least once during each 12-month period.

(b) *18-month rule for certain small institutions.* The OTS may conduct a full-scope, on-site examination of a savings association at least once during each 18-month period, rather than each 12-month period as provided in paragraph (a) of this section, if the following conditions are satisfied:

(1) The savings association has total assets of less than \$500 million;

(2) The savings association is well capitalized as defined in § 565.4 of this chapter;

(3) At its most recent examination, the OTS—

(i) Assigned the savings association a rating of 1 or 2 for management as part of the savings association's composite rating under the Uniform Financial Institutions Rating System (commonly referred to as CAMELS), and

(ii) Determined that the savings association was in outstanding or good condition, that is, it received a composite rating, as defined in § 516.5(c) of this chapter, of 1 or 2;

(4) The savings association currently is not subject to a formal enforcement proceeding or order by the OTS or the FDIC; and

(5) No person acquired control of the savings association during the preceding 12-month period in which a full-scope, on-site examination would have been required but for this section.

(c) *Authority to conduct more frequent examinations.* This section does not limit the authority of the OTS to examine any savings association as frequently as the agency deems necessary.

[63 FR 16381, Apr. 2, 1998, as amended at 64 FR 69185, Dec. 10, 1999; 66 FR 13008, Mar. 2, 2001; 72 FR 17803, Apr. 10, 2007]

§ 563.172 Financial derivatives.

(a) *What is a financial derivative?* A financial derivative is a financial contract whose value depends on the value

of one or more underlying assets, indices, or reference rates. The most common types of financial derivatives are futures, forward commitments, options, and swaps. A mortgage derivative security, such as a collateralized mortgage obligation or a real estate mortgage investment conduit, is not a financial derivative under this section.

(b) *May I engage in transactions involving financial derivatives?* (1) If you are a Federal savings association, you may engage in a transaction involving a financial derivative if you are authorized to invest in the assets underlying the financial derivative, the transaction is safe and sound, and you otherwise meet the requirements in this section.

(2) If you are a state-chartered savings association, you may engage in a transaction involving a financial derivative if your charter or applicable State law authorizes you to engage in such transactions, the transaction is safe and sound, and you otherwise meet the requirements in this section.

(3) In general, if you engage in a transaction involving a financial derivative, you should do so to reduce your risk exposure.

(c) *What are my board of directors' responsibilities with respect to financial derivatives?* (1) Your board of directors is responsible for effective oversight of financial derivatives activities.

(2) Before you may engage in any transaction involving a financial derivative, your board of directors must establish written policies and procedures governing authorized financial derivatives. Your board of directors should review Thrift Bulletin 13a, "Management of Interest Rate Risk, Investment Securities, and Derivatives Activities," and other applicable agency guidance on establishing a sound risk management program.

(3) Your board of directors must periodically review:

(i) Compliance with the policies and procedures established under paragraph (c)(2) of this section; and

(ii) The adequacy of these policies and procedures to ensure that they continue to be appropriate to the nature and scope of your operations and existing market conditions.

(4) Your board of directors must ensure that management establishes an

adequate system of internal controls for transactions involving financial derivatives.

(d) *What are management's responsibilities with respect to financial derivatives?*

(1) Management is responsible for daily oversight and management of financial derivatives activities. Management must implement the policies and procedures established by the board of directors and must establish a system of internal controls. This system of internal controls should, at a minimum, provide for periodic reporting to the board of directors and management, segregation of duties, and internal review procedures.

(2) Management must ensure that financial derivatives activities are conducted in a safe and sound manner and should review Thrift Bulletin 13a, "Management of Interest Rate Risk, Investment Securities, and Derivatives Activities" (available at the address listed at § 516.1 of this chapter), and other applicable agency guidance on implementing a sound risk management program.

(e) *What records must I keep on financial derivative transactions?* You must maintain records adequate to demonstrate compliance with this section and with your board of directors' policies and procedures on financial derivatives.

[63 FR 66349, Dec. 1, 1998]

§ 563.176 Interest-rate-risk-management procedures.

Savings associations shall take the following actions:

(a) The board of directors or a committee thereof shall review the savings association's interest-rate-risk exposure and devise a policy for the savings association's management of that risk.

(b) The board of directors shall formerly adopt a policy for the management of interest-rate risk. The management of the savings association shall establish guidelines and procedures to ensure that the board's policy is successfully implemented.

(c) The management of the savings association shall periodically report to the board of directors regarding implementation of the savings association's